

## Small Business Administration

## § 120.822

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### CERTIFICATION PROCEDURES TO BECOME A CDC

#### **§ 120.810 Applications for certification as a CDC.**

(a) Applicants for certification as a CDC must apply to the SBA District Office serving a proposed Area of Operations. An applicant must demonstrate that it satisfies the certification and operating criteria in §§ 120.820 through 120.829, as well as:

(1) The need for 504 services (if there is already a CDC in the Area of Operations, the applicant must justify the need for another and present a plan to avoid duplication or overlap);

(2) A budget, approved by its Board of Directors; and

(3) A plan to meet CDC operating requirements (without specializing in a particular industry).

(b) The AA/FA, with the recommendation of each District Office in the applicant's proposed Area of Operations, shall make the certification decision.

#### **§ 120.811 Public notice of CDC certification application.**

(a) As part of the application process, the applicant must publish a notice in a general circulation newspaper in the proposed Area of Operations, including the name and location of the proposed CDC, its purpose and Area of Operations, and the names and addresses of its officers and directors. The applicant shall send a copy of the notice to SBA. The notice shall provide the public at least 30 days to submit written comments to the District Office. The SBA shall consider the comments in making its decision on the application.

(b) CDCs serving the proposed Area of Operations shall be directly notified and given at least 30 days to comment.

#### **§ 120.812 Probationary period for newly certified CDCs.**

(a) Newly certified CDCs will be on probation for a period of two years, at the end of which the CDC must petition for:

(1) Permanent CDC status;

(2) A single, one-year extension of probation; or

(3) ADC status.

(b) SBA will consider failure to file a petition before the end of the probationary period as a withdrawal from the 504 program. If the CDC elects ADC status or withdrawal, it must transfer all funded and/or approved loans to another CDC, SBA, or another servicer approved by SBA.

### REQUIREMENTS FOR CDC CERTIFICATION AND OPERATION

#### **§ 120.820 CDC non-profit status.**

A CDC must be a non-profit corporation (or limited liability company) in good standing. (For-profit CDCs certified by SBA prior to January 1, 1987 may retain their certifications.) An SBIC may not become a CDC.

#### **§ 120.821 CDC Area of Operations.**

A CDC must have a designated Area of Operations, specified by the CDC and approved by SBA. There can be only one statewide CDC in each state, which must foster economic development throughout the state and provide 504 assistance to areas not adequately served by other CDCs.

#### **§ 120.822 CDC membership.**

A CDC must have at least 25 members (or stockholders for for-profit CDCs approved prior to January 1, 1987). No person or entity may own or control more than 10 percent of the CDC's voting membership (or stock). Members must be representative of and provide evidence of active support in the Area of Operations. Members must be from each of the following groups:

(a) Government organizations responsible for economic development in the Area of Operations and acceptable to SBA;

(b) Financial institutions that provide commercial long-term fixed asset financing in the Area of Operations;

(c) Community organizations dedicated to economic development in the Area of Operations such as chambers of commerce, foundations, trade associations, colleges, or universities; and

(d) Businesses in the Area of Operations.